

US Serial No. 09/086,508
Filed: May 28, 1998
Group Art Unit: 3764
Examiner: Brown, Michael A
Docket No.: 22956-114 (MIT212)

REMARKS

The pending Office Action addresses claims 1-6, 10-21, and 25-28. Applicants appreciate the Examiner's allowance of claims 25-28, and the Examiner's indication that claims 4, 14, and 15 represent allowable subject matter. Remaining claims 1-3, 5, 6, 10-13, and 16-21 stand rejected.

Rejections Pursuant to 35 U.S.C. §102

Claims 1-3, 5, 6, 10-13, 16-18, 20, and 21 are rejected pursuant to 35 U.S.C §102(b) as being anticipated by U.S. Patent No. 4,521,147 of King. The Examiner argues that King discloses a bone anchor substantially as claimed. Applicants respectfully disagree.

Independent claim 1 is directed to a bone anchor including a rivet which includes a head and an elongate body having proximal and distal ends. The head is mounted on the proximal end of the elongate body. The bone anchor also includes an expandable sleeve having an inner bore adapted to receive the elongate body of the rivet. A washer floats at an end of the expandable sleeve that first receives the rivet. As the rivet is received in the expandable sleeve, the sleeve expands in an interference fit with surrounding bone and the head of the rivet forces the washer into contact with tissue adjacent to the bone at an angle that conforms to an angle of a surface of the bone. Independent claims 5 and 10 similarly recite a bone anchor having a rivet, an expandable sleeve, and a washer disposed about an expandable sleeve. Claim 10 further requires that the washer is sandwiched between the tissue and the head of the rivet.

King does not teach or even suggest a bone anchor having a floating washer disposed on an expandable sleeve, as required by independent claims 1, 5, and 10. As shown in FIGS. 6-10, King teaches a blind fastener having three components: a stem (14), an inner sleeve (12) that receives the stem, and an outer sleeve (11) that receives the inner sleeve. The stem is used to insert the inner sleeve into the outer sleeve, thereby causing the outer sleeve to expand and engage bone. As further shown, the device also includes a washer (15) that is disposed around the inner sleeve. The washer is not disposed on the expandable sleeve, as required by independent claims 1, 5, and 10. King also fails to teach or even suggest a washer that can be forced into contact with tissue, as further required by claims 1 and 10 of the application. To the contrary, the washer disclosed in King is sandwiched

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between portions of the inner and outer sleeves, as shown in FIGS. 9 and 10 of King, and it does not contact tissue at all.

Accordingly, independent claims 1, 5, and 10, as well as claims 2-3, 6, 11-13, 16-18, 20 and 21 which depend therefrom, distinguish over King.

Rejections Pursuant to 35 U.S.C. §103

Claim 19 is rejected pursuant to 35 U.S.C. §103(a) as being unpatentable over King in view of U.S. Patent No. 4,719,917 of Barrows. Claim 19 depends from claim 10, and therefore distinguishes over King for reasons previously discussed. Barrows does not remedy the deficiencies of King, as Barrows does not teach or suggest a floating washer surrounding an expandable sleeve. Rather, Barrow teaches a surgical staple with portions of that staple being bioabsorbable. Accordingly, claim 19 represents allowable subject matter.

Conclusion

Applicants submit that all pending claims are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

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